REMARKS

In response to the final Office Action mailed January 31, 2006, and further to the Notice of Appeal filed July 31, 2006, reconsideration of this application is respectfully requested in view of the above amendments, the following remarks and the concurrently filed Request for Continued Examination. Applicants have amended claim 14, support for which can be found at page 13, lines 20-24. No new matter has been added. The above amendments are not to be construed as acquiescence to the Examiner's stated grounds for rejection and are made without prejudice to prosecution of any subject matter removed and/or modified by this amendment in a related divisional, continuation or continuation-in-part application. Claims 14-16 remain pending in the application, with claim 15 being allowed.

Claim 14 stands rejected under 35 U.S.C. § 102(b) as allegedly anticipated by Yamamoto *et al.* (Nature, 1986, 319:230-234). According to the Examiner, the claim is drawn to an isolated polypeptide consisting of a portion of SEQ ID NO: 2, consisting of at least residues 1021-1030, and given that the term portion is not defined in the specification it is assumed that a portion of SEQ ID NO: 2 consists of any or all contiguous amino acid residues of SEQ ID NO: 2. Also according to the Examiner, Yamamoto *et al.* teach a polypeptide with 100% identity to SEQ ID NO: 2, wherein the polypeptide is the entire portion of SEQ ID NO: 2 and consists of at least residues 1021-1030.

Applicants respectfully traverse this rejection. As noted by the Examiner, Yamamoto *et al.* teaches a polypeptide that is 100% identical to SEQ ID NO: 2, corresponding to the full length Her2/neu polypeptide. However, this is not what is claimed by Applicants. Rather, the claimed invention requires that a polypeptide is one consisting of residues 975-1209 of SEQ ID NO: 2, or a portion of said polypeptide (said polypeptide being a polypeptide consisting of residues 975-1209 of SEQ ID NO: 2), wherein the portion consists of at least residues 1021-1030. As Yamamoto clearly does not teach or suggest a polypeptide consisting of residues 975-1209 of SEQ ID NO: 2, this reference fails to anticipate claim 14.

Claim 14 also stands rejected as allegedly anticipated by US2002/0177567. According to the Examiner, the cited reference teaches SEQ ID NO: 5, which is a 59 amino acid

residue fragment of the instantly claimed SEQ ID NO: 2 and consists of at least residues 1021-1030 of SEQ ID NO: 2.

Applicants respectfully traverse this rejection. For purposes of clarity, but without acquiescing to the stated grounds for rejection, Applicants have amended claim 14 to specify that the claimed polypeptide is selected from: (a) a polypeptide consisting of residues 975-1209 of SEQ ID NO: 2; and (b) a fragment of (a) where said fragment is at least 100 amino acids in length and comprises residues 1021-1030 of SEQ ID NO: 2. The claimed subject matter thus defines a closed genus of polypeptides related by both structure (amino acids) and function (T cell immunogenicity). Further, this claimed subject matter is not described by the cited reference, as the cited reference fails to teach or suggest a fragment of a polypeptide consisting of residues 975-1209 of SEQ ID NO: 2, wherein the fragment is at least 100 amino acids in length. Accordingly, the cited reference fails to anticipate the invention as claimed. Reconsideration is respectfully requested.

Claims 14 and 16 stand rejected under 35 U.S.C. § 112, first paragraph, as allegedly failing to comply with the enablement requirement. More particularly, according to the Examiner, one cannot extrapolate the teachings of the specification to the enablement of the claims because it appears that the only use contemplated for the claimed invention is as a therapeutic/pharmaceutical for the production of T cells. The Examiner points to certain references in support of the position that there are unpredictable elements involved in the administration of peptides for eliciting an immune response.

Applicants traverse this rejection. The invention as claimed is drawn to isolated polypeptides, not methods for treating cancer. Accordingly, in order to enable the invention as claimed, one need not enable therapeutic uses of the claimed polypeptide. Applicants further note in this respect that, contrary to the Examiner's assertion, therapeutic/pharmaceutical uses of the claimed polypeptides are not the only uses described by Applicants' specification. For example, at page 80, line 28 to page 81, line 12, the specification describes that polypeptides of the invention may be used to detect the presence of reactive T cells within a patient. Such uses are indeed well known and established in the art (*e.g.*, U.S. Patent No. 6,911,207). In view of Applicants' identification of the naturally processed human T cell epitope corresponding to

residues 1021-1030 of SEQ ID NO: 2, an artisan having ordinary skill would understand and appreciate that the claimed invention can be made and used in this diagnostic context. Accordingly, while Applicants maintain that the specification is indeed enabling for pharmaceutical uses of the claimed polypeptides, there are certainly also other uses contemplated by Applicants and squarely within the scope of subject matter described and enabled by the specification as originally filed. Reconsideration is respectfully requested.

The Director is authorized to charge any additional fees due by way of this Amendment, or credit any overpayment, to our Deposit Account No. 19-1090.

Favorable consideration and a Notice of Allowance are earnestly solicited.

Respectfully submitted,

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